

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: : **CHAPTER 13**
VANESSA NIECHELLE WINDHAM : **CASE NO.: A18-70257-JWC**
DEBTOR : :

TRUSTEE'S MOTION TO CONVERT CASE TO ONE UNDER CHAPTER 7

COMES NOW, NANCY J. WHALEY, Standing Chapter 13 Trustee in the above-referenced matter, and files this Motion to Convert Case to One Under Chapter 7. The Trustee respectfully shows the Court the following:

1.

The Debtor filed for relief under Chapter 13 of Title 11 on December 3, 2018. The case was confirmed on October 24, 2019. The plan, as proposed, provides for payments of \$740.00 per month and a one hundred percent (100%) dividend to unsecured creditors.

2.

The Debtor's mortgage holder, U.S. Bank National Association (hereinafter "U.S. Bank"), filed a Motion for Relief from the automatic stay on December 19, 2019 on property located at 1974 Marvin Lane, Atlanta, Georgia 30311 (hereinafter "the property").

3.

The Debtor scheduled an ownership interest in the property. The current fair market value of the property is \$168,150.00. The Debtor did not claim any exemption leaving unexempt equity in the property of \$75,691.00.

4.

As of the date of this Motion, unsecured creditors have filed claims totaling \$7,955.16.

5.

The Trustee argues it is necessary to convert this case to one under Chapter 7 so to allow the Chapter 7 Trustee to administer the property of the estate and assure the adequate protection of unsecured creditors via liquidation of the Debtor's real property. Allowance of the stay to be lifted so to permit U.S. Bank to foreclose upon the property does not adequately protect unsecured creditors as the value realized from such a sale is likely to be substantially diminished.

6.

Pursuant to 11 U.S.C. § 1307(c)(6), the Court may convert a case under Chapter 13 to one under Chapter 7, or dismiss the case, whichever is in the best interest of creditors, based upon a “material default by the debtor with respect to a term of a confirmed plan.” The Debtor has failed to maintain the payments to U.S. Bank as provided under the terms of the confirmed plan, and thus a material default has occurred. It is in the best interest of creditors to convert rather than dismiss for the reasons already specified by the Trustee. U.S. Bank is adequately protected by the equity that exists in the property and the fact that any eventual sale should satisfy their lien in full.

WHEREFORE the Trustee prays that this Chapter 13 case be converted to one under Chapter 7 and that a Chapter 7 Trustee be appointed for administration of the Debtor’s estate. The Trustee prays that the conversion fee not be paid until the Court hears this matter and if the case is converted to one under Chapter 7 that the Trustee be permitted to pay the fee with available funds in the Debtor’s case.

Respectfully submitted,

/s/
Julie M. Anania,
Attorney for Chapter 13 Trustee
GA Bar No. 477064
303 Peachtree Center Ave., NE
Suite 120
Atlanta, GA 30303
(678) 992-1201

/scw

CERTIFICATE OF SERVICE

Case No: A18-70257-JWC

This is to certify that I have this day served the following with a copy of the foregoing Chapter 13 Trustee's Motion to Convert This Case to one Under Chapter 7 by depositing in the United States mail a copy of same in a properly addressed envelope with adequate postage thereon.

Debtor(s):

VANESSA NIECHELLE WINDHAM
3651 PREAKNESS DRIVE
DECATUR, GA 30034

Creditor:

U.S. BANK NATIONAL ASSOCIATION
C/O SELECT PORTFOLIO SERVICING, LLC
P.O. BOX 65450
SALT LAKE CITY, UT 84165

Office of the U.S. Trustee:

OFFICE OF THE U.S. TRUSTEE
ATTN: JENEANE TREACE
ATTN: DAVID WEIDENBAUM
75 TED TURNER DRIVE, S.W.
SUITE 362
ATLANTA, GA 30303

Creditor Attorney:

ALDRIDGE PITE, LLP
FIFTEEN PIEDMONT CENTER
3575 PIEDMONT ROAD, NE
SUITE 500
ATLANTA, GA 30305

(ALL CREDITORS LISTED ON MAILING MATRIX)

I further certify that I have on this day electronically filed the foregoing Chapter 13 Trustee's Motion to Convert Case to One under Chapter 7 using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

Attorney for the Debtor(s):

SLIPAKOFF & SLOMKA, PC

This the 25th day of June, 2020.

/s/ _____

Julie M. Anania
Attorney for the Chapter 13 Trustee
State Bar No. 477064
303 Peachtree Center Avenue, NE
Suite 120
Atlanta, GA 30303
678-992-1201

113E-1

275 Collier Rd NW #230

Case 18-70257-jwc

Atlanta, GA 30309-1700

Northern District of Georgia

Atlanta

Wed Jun 24 14:44:18 EDT 2020

Andrea Lynn Betts

RAS Crane, LLC

Suite 170

10700 Abbotts Bridge Road

Duluth, GA 30097-8461

(p)CAPITAL ONE

PO BOX 30285

SALT LAKE CITY UT 84130-0285

Capital One Bank (USA), N.A.

by American InfoSource as agent

4515 N Santa Fe Ave

Oklahoma City, OK 73118-7901

Carrington Mortgage Se

15 Enterprise St

Aliso Viejo, CA 92656-2653

Julian T. Cotton

Padgett Law Group

Suite 203

6267 Old Water Oak Road

Tallahassee, FL 32312-3858

Enhanced Recovery Co L

8014 Bayberry Rd

Jacksonville, FL 32256-7412

Fulton County Tax Commission

141 Pryor Street SW

Suite 1106

Atlanta, GA 30303-3446

(p)GEORGIA DEPARTMENT OF REVENUE

COMPLIANCE DIVISION

ARCS BANKRUPTCY

1800 CENTURY BLVD NE SUITE 9100

ATLANTA GA 30345-3202

Christopher Giacinto

Padgett Law Group

Suite 203

6267 Old Water Oak Road

Tallahassee, FL 32312-3858

Radha E. Gordon

Aldridge Pite, LLP

Suite 500, Fifteen Piedmont Center

3575 Piedmont Road, N.E.

Atlanta, GA 30305-1636

Internal Revenue Service

401 West Peachtree Street, NW

Stop 334-D Room 400

Atlanta, GA 30308-3510

A. Michelle Hart Ippoliti

McCalla Raymer Leibert Pierce, LLC

1544 Old Alabama Road

Roswell, GA 30076-2102

(p)JEFFERSON CAPITAL SYSTEMS LLC

PO BOX 7999

SAINT CLOUD MN 56302-7999

Richard B. Maner

Richard B. Maner, P.C.

Suite 200

180 Interstate N Parkway

Atlanta, GA 30339-2106

Ciro A. Mestres

McCalla Raymer Leibert Pierce, LLC

1544 Old Alabama Road

Roswell, GA 30076-2102

Nationstar Mortgage LLC D/B/A Mr. Cooper

ATTN: Bankruptcy Dept

PO Box 619096

Dallas, TX 75261-9096

Nationstar Mortgage LLC d/b/a Mr. Cooper

RAS Crane LLC

10700 Abbotts Bridge Road, Suite 170

Duluth, GA 30097-8461

Nationstar/mr Cooper

350 Highland

Houston, TX 77009-6623

Navient

Po Box 9500

Wilkes Barre, PA 18773-9500

Navient Solutions, LLC. on behalf of

Ascendium Education Solutions

GLHEC and Affiliates

PO BOX 8961

Madison, WI 53708-8961

Bryce R. Noel

Aldridge Pite, LLP

3575 Piedmont Road, NE, Suite 500

Fifteen Piedmont Center

Atlanta, GA 30305-1527

Pueblo Benito Resort

23450 Cabo San Lucas

B.C.S. MEXICO

Lee S. Raphael

Prober & Raphael, A Law Corporation

Suite 100

20750 Ventura Blvd.

Woodland Hills, CA 91364-6207

Receivables Performanc

20816 44th Ave W

Lynnwood, WA 98036-7744

Joshua Mark Ryden

Padgett Law Group

Howard P. Slomka

Slipakoff & Slomka, PC

Suite 2100

3350 Riverwood Parkway

Atlanta, GA 30339-3363

Storage World

3122 Panthersville Rd

Decatur, GA 30034-3829

Suntrust Bank/cc 510
Po Box 85526
Richmond, VA 23285-5526

(p) TMX FINANCE LLC FORMERLY TITLEMAX
15 BULL STREET
SUITE 200
SAVANNAH GA 31401-2686

Titlemax
4648 Hwy 78
Loganville, GA 30052

U.S. Bank National Association
Select Portfolio Servicing, Inc.
P.O. Box 65450
Salt Lake City, UT 84165-0450

U.S. Bank Trust National Association
PO Box 814609
Dallas, TX 75381-4609

U.S. Bank Trust National Association, not in
PO Box 814609
Dallas, TX 75381-4609

United States Attorney
Northern District of Georgia
75 Ted Turner Drive SW, Suite 600
Atlanta GA 30303-3309

Wells Fargo Bank, N.A.
Prober & Raphael, A Law Corp.
20750 Ventura Boulevard, Suite 100
Woodland Hills, CA 91364-6207

Wells Fargo Bank, N.A., et al
c/o CARRINGTON MORTGAGE SERVICES, LLC
1600 SOUTH DOUGLASS ROAD
ANAHEIM, CA 92806-5948

Nancy J. Whaley
Nancy J. Whaley, Standing Ch. 13 Trustee
303 Peachtree Center Avenue
Suite 120, Suntrust Garden Plaza
Atlanta, GA 30303-1216

Vanessa Niechelle Windham
3651 Preakness Drive
Decatur, GA 30034-3340

Kristin A. Zilberstein
Padgett Law Group
Suite 925
5501 LBJ Freeway
Dallas, TX 75240-6220

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Capital One
15000 Capital One Dr
Richmond, VA 23238

Georgia Department of Revenue
1800 Century Blvd
Suite 17200
Atlanta, GA 30345

Jefferson Capital Syst
16 Mcleland Rd
Saint Cloud, MN 56303

(d) Jefferson Capital Systems LLC
Po Box 7999
Saint Cloud Mn 56302-9617

TitleMax of Georgia, Inc.
15 Bull Street, Suite 200
Savannah, GA 31401

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u) CARRINGTON MORTGAGE SERVICES, LLC

(u) Fay Servicing, LLC

(u) Select Portfolio Servicing Inc.

(u) U.S. Bank National Association

(u) WELLS FARGO BANK, N.A.

(du) WELLS FARGO BANK, N.A.

End of Label Matrix

Mailable recipients 41

Bypassed recipients 8

Total 49